

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-147101-10

Date:
April 12, 2011

LEGEND

Trust =

x =

Year =

1

Year =

2

Dear :

This letter responds to a letter dated November 2, 2010, and subsequent correspondence, submitted on behalf of Trust by its authorized representative, requesting that the Service grant Trust an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 663(b) of the Internal Revenue Code (Code).

FACTS

Trust files its federal income tax return on a calendar year basis. The trustee of Trust made a distribution in the amount of \$x (Distribution) within the first sixty-five days of Year 2. Trust included the distribution on its federal income tax return for Year 1 as permitted under § 663(b), but did not timely make an election under § 663(b).

LAW AND ANALYSIS

Section 663(b)(1) provides that in general, if within the first 65 days of any taxable year of an estate or a trust, an amount is properly paid or credited, such amount shall be considered paid or credited on the last day of the preceding taxable year. Section 663(b)(2) provides that § 663(b)(1) shall apply with respect to any taxable year of an estate or a trust only if the executor of such estate or the fiduciary of such trust (as the case may be) elects, in such manner and at such time as the Secretary prescribes by regulations, to have § 663(b)(1) apply for such taxable year.

Section § 1.663(b)-2(a)(1) of the Income Tax Regulations provides that if a trust return is required to be filed for the taxable year of the trust for which the election is made, the election shall be made in the appropriate place on such return. The election under § 1.663(b)-2(a)(1) shall be made not later than the time prescribed by law for filing such return (including extensions thereof). Such election shall become irrevocable after the last day prescribed for making it.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Section 301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2.

Under § 301.9100-3, a request for relief will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the information submitted and the representations made, we conclude that Trust has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, Trust is granted an extension of time of 120 days from the date of this letter to file an election under § 663(b). The election should be made by filing an income tax return for Year 1, amended to include the election, with the appropriate service center. A copy of this letter should be attached to the amended return.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, we are sending a copy of this letter to Trust's authorized representative.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):
Copy of this letter
Copy for § 6110 purposes